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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

1 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Billed Party Preference )  
for 0+ InterLATA Calls )

CC Docket No. 92-77

COMMENTS OF LDDS COMMUNICATIONS, INC.

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## SUMMARY

LDDS's Comments explain why the Commission's Billed Party Preference proposal will fail to improve upon today's system of "0+" presubscription, because Billed Party Preference will not affect substantial numbers of "0+" long distance calls.

LDDS also urges the Commission to continue to rely on its rules which require access code blocking and disclosure of information to consumers of operator services. LDDS explains how the use of access codes to "dial around" presubscribed carriers is increasing, signifying consumers are willing to accept the use of access codes as an alternative to "0+" dialing.

LDDS suggests how the Commission can eliminate AT&T's unearned advantages in the "0+" marketplace by addressing the discriminatory card validation practices which allow AT&T to dominate "0+" presubscription.

The Commission should not adopt Billed Party Preference. But if the Commission insists on Billed Party Preference, the plan must be modified to allow all carriers to issue line based calling cards. In addition, the Commission must secure the cooperation of state regulators to ensure that BPP applies to all "0+" toll calls.

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COMMENTS OF LDDS COMMUNICATIONS, INC.

LDDS Communications, Inc. ("LDDS"), by its undersigned counsel, hereby submits its comments in response to the Commission's Further Notice of Proposed Rulemaking ("Further Notice" or "FNPRM")<sup>1</sup> in the above-referenced proceeding.

**I. INTRODUCTION**

The FNPRM is the latest in a number of attempts by the Commission to evaluate the possibility of replacing today's system of "0+" presubscription for interstate interLATA calls with an entirely different routing plan. The Commission asks parties to critique its initial determination that the overall benefits of Billed Party Preference outweigh the costs of implementing it. The Commission also asks for proposals on alternatives to the adoption of BPP.

LDDS will not burden the Commission with a review of the history of Billed Party Preference as a concept. However, since its initial proposal by Bell Atlantic five years ago, opposition to Billed Party Preference has remained consistent, while support for the proposal has largely eroded. Moreover, the fundamental flaws in the Commission's initial design for Billed Party Preference, which have been pointed out by numerous parties representing all industry segments, are mostly uncorrected by the FNPRM. The

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<sup>1</sup> FCC 94-117 (Released June 6, 1994).

Commission's continued attention to this flawed proposal is surprising to LDDS, given the other options available.

## II. STATEMENT OF INTEREST

LDDS is the fourth largest interexchange carrier in the U.S. The vast majority of LDDS's revenue is derived from providing direct dial and 800 service directly to subscribers. LDDS issues calling cards useful to its subscribers in placing calls away from home. The calling cards issued by LDDS are economic and convenient substitutes for the operator services provided to "away from home" callers. However, LDDS also provides operator services, both to presubscribed business and residential customers and to callers utilizing service from aggregator locations that have chosen LDDS to handle their presubscribed "0+" calls.

Given the nature of LDDS's customer base and LDDS's interest in providing "user friendly" services, it is natural to assume LDDS would support the adoption of Billed Party Preference. However, while LDDS has previously acknowledged the potential benefits of preserving the convenience of "0+" dialing and focusing competition on end users, LDDS believes Billed Party Preference, as proposed, will fail to achieve either of these goals, and will not otherwise benefit the customers of LDDS or other long distance carriers. For this reason, LDDS does not support the adoption of Billed Party Preference. Instead, LDDS believes the Commission can and should address the apparent difficulties in the market for "away from home" calling in far easier and less expensive ways.

In its comments, LDDS explains why Billed Party Preference's benefits are largely illusory, and how Billed Party Preference will

create as many problems for end users as it may solve. In addition, LDDS explains what changes to Billed Party Preference are necessary to make the program work should the Commission insist on its implementation.

**III. BILLED PARTY PREFERENCE WILL NOT OFFER SIGNIFICANT  
ADDITIONAL BENEFITS TO "AWAY FROM HOME" CALLERS.**

Billed Party Preference will succeed only if it is fully embraced by the population it is intended to benefit, i.e. callers who use telephones in aggregator locations. Callers will only welcome BPP if they actually experience benefits from it. As shown below, BPP will fail because it will not foster consistent use of "0+" dialing, which is essential if callers are to understand and support it.

**A. Billed Party Preference Would Not Eliminate the Need for  
Access Codes and Would Not Guarantee Routing by the  
Billed Party's Preferred Carrier.**

The FNPRM describes three alleged principal benefits of Billed Party Preference. First, the Commission states BPP would simplify calling, because callers would no longer need to use access codes, their OSP cards would be accepted on a "0+" basis from all payphones, and calls would automatically be carried by the OSP preferred by the billed party. Notice at ¶ 9. If these claimed benefits were a reality, BPP would simplify "away from home" calling by giving callers the confidence in "0+" dialing that would naturally arise once expectations of consistent call routing were met. If this confidence in the consistent routing of "0+" calls could be established, LDDS could probably support Billed Party Preference. Unfortunately, BPP will fail to create consistent

expectations of consistent routing for "0+" calls, because the plan will only affect the routing of "0+" interstate calls. The plan will not eliminate "0+" presubscription for intrastate calls<sup>2</sup>, so not all "0+" call types will be processed in like fashion. The routing of "0" calls under today's presubscription environment and under Billed Party Preference is compared in the table below.

"0" CALL TYPE	PRESUBSCRIPTION /ROUTING BY CPE	BILLED PARTY PREFERENCE
"0+" interstate interLATA	to IXC/OSP selected by location	to billed party's carrier
"0+" intrastate interLATA	to IXC/OSP selected by location	to IXC/OSP selected by location
"0+" intrastate intraLATA	to IXC/OSP selected by location, or LEC	to IXC/OSP selected by location, or LEC
"00-"	to IXC/OSP selected by location	to IXC/OSP selected by location
"0-"	to LEC or IXC/OSP selected by location	to LEC or IXC/OSP selected by location

<sup>2</sup> The Commission has never stated a jurisdictional basis for requiring BPP to include intrastate calls. This is a critical oversight, given that about 30% of all long distance calling is intrastate. Moreover, the Commission acknowledges that the New York Department of Public Service opposes imposition of BPP on intrastate interLATA calls. FNPRM, ¶ 40. The Further Notice implies BPP will affect all 0+ calls except for intrastate intraLATA calls. See FNPRM, ¶ 47. However, LDDS is unaware of any jurisdictional difference between types of intrastate traffic — the FCC's jurisdiction does not extend to intrastate interLATA traffic any more than it does to intrastate intraLATA traffic. Cf. Administration of the North American Numbering Plan, Notice of Proposed Rulemaking, CC Docket No. 92-237, 9 FCC Rcd 2068 (1994) (in considering "1+" presubscription for interstate intraLATA calls, the Commission claimed no jurisdiction over routing of intrastate traffic).

As the table illustrates, Billed Party Preference will not affect the routing of any intrastate traffic. But Billed Party Preference can only produce customer satisfaction if it eliminates the need for consumers to ever use an access code to make a long distance call. As long as some "0+" long distance calls continue to be routed to a presubscribed carrier, the need to use access codes on some calls will not have been eliminated, and callers will not perceive any benefits from Billed Party Preference. For example, assuming BPP is adopted, consider a caller from California who uses a calling card issued by Pacific Bell, and who has selected AT&T as the preferred carrier for "0+" calls billed to the card. Assume the caller travels to Louisville, Kentucky and makes several toll calls from a local exchange carrier (South Central Bell) pay telephone which uses XYZ Operator Service to handle intrastate interLATA calls. The calls and their routing under BPP are illustrated in the table below.

DIALED NUMBER	CALL TYPE	DESTINATION	ROUTED TO
0+426-XXXX	Local	Louisville	South Central Bell
0+502-564-XXXX	intraLATA toll	Frankfort, KY	South Central Bell
0+ 502-443-XXXX	interLATA toll	Paducah, KY	XYZ Operator Service
0+ 415-765-XXXX	interLATA toll	San Francisco, CA	AT&T

The calls, all dialed on a "0+" basis, would be handled by three different carriers, in spite of the caller's preference to



use AT&T for all "0+" long distance calls. To use AT&T for the two intrastate toll calls, an access code would be required.<sup>3</sup>

LDDS agrees with the Commission's observation that many callers find current dialing requirements for operator assisted calls to be burdensome and confusing. FNPRM, ¶ 4. But BPP would provide no more consistency in call routing than presubscription provides today. Yet, the Commission's desire to mandate BPP is based on the premise that BPP will "guarantee that all callers would always reach the preferred carrier, while simplifying dialing requirements on operator service calls." FNPRM, ¶ 4, n. 5. As illustrated in the table above, Billed Party Preference provides no such guarantee.

Without the guarantee of consistent call routing under Billed Party Preference, LDDS can think of no reason to force its own cardholders to "participate" in Billed Party Preference. There is no reason for LDDS to change its instructions for the OnLine Calling Card, telling users to always dial "0+" the called number, unless this change would assure cardholders of reaching LDDS on all

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<sup>3</sup> Since the cardholder in this example is a customer of Pacific Bell, it is reasonable to assume the billed party has no preference to use South Central Bell instead of AT&T for a "0+" call that happens to be an intraLATA call. Unfortunately for the caller, although AT&T is authorized to compete in the intraLATA market in Kentucky, Billed Party Preference would not automatically route the call to AT&T.

toll calls made with the card.<sup>4</sup> Although the dialing of an access code on all calls may appear to the Commission to be a burden,<sup>5</sup> LDDS's postalized rate structure and absence of a surcharge for its intrastate card calls provides significant savings over the alternatives available through "0+" dialing, particularly over the rates for "0+" intraLATA operator services provided by LECs. In addition, the availability of sequence calling allows LDDS cardholders to make consecutive calls without having to redial the 800 access number or their calling card number.

If the LDDS OnLine Calling Card is converted to "0+" access, LDDS customers would pay more for many of the intrastate calls they make today, because these calls will now be routed to a LEC or OSP (for intrastate interLATA calls) instead of LDDS. The disparity could be increased if the enormous cost of BPP is passed on to ratepayers for "0+" calls. LDDS believes its own customers would rather continue to utilize 800 access in conjunction with all of their LDDS calling card calls rather than pay more for some calls in return for being able to utilize "0+" dialing for interstate interLATA calls.

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<sup>4</sup> Today, the use of an 800 access number assures LDDS customers of always reaching LDDS for their card calls. The caller can use the same dialing pattern for all calls billed to the card, and does not have to know whether a call is interstate, intrastate or intraLATA. Under Billed Party Preference, callers will have to use trial and error to determine when 0+ dialing may be used instead of an access code .

<sup>5</sup> LDDS does not regard the dialing of access codes as enough of a burden to require BPP as some relief. The difficulty with access codes is convincing customers of their potential value.

**B. The Marketplace Will Continue to Force OSPs to Refocus Their Competitive Efforts on End Users.**

The second alleged benefit of BPP is that it would cause OSPs to focus on competing for end users rather than for location owners. LDDS believes the current environment is already providing this benefit.

Beginning over three years ago, the Commission established a nationwide regulatory structure which provides operator service customers with the opportunity to choose freely among different providers of operator services. Under the Commission's rules adopted in CC Docket 91-35, aggregator locations were required to unblock 800 and 950 access, and all OSPs were required to establish 800 or 950 access numbers for their networks. The use of these alternative forms of access has increased dramatically.

The FNPRM asks for comments on the extent to which consumer acceptance of access codes is likely to change over time. LDDS believes cardholders are becoming more familiar with access codes and are continually becoming more willing to use them. Consumer acceptance is stimulated by the innovative methods being used by MCI, AT&T and others to market alternative methods of making collect and calling card calls. Among other things, AT&T has begun heavily promoting 800 access to its own cardholders. In addition, both AT&T and MCI offer the ability to make collect calls using 800 access numbers to their operator services. Various carriers are now promoting pre-paid calling cards as convenient alternatives to the use of operator services. LDDS promotes the use of access codes in marketing its own calling card services, and furnishes general information on the use of access codes to consumers who

inquire about LDDS's operator services. See Attachment 1. As consumers increasingly utilize access numbers in other ways, e.g., to disarm home security systems, or to remotely access voice mail or other services by telephone, acceptance will continue to increase. All of these things demonstrate how the marketplace has produced solutions to a consumer problem, without the need for additional regulatory intervention.

The consumer education process may be taking longer than the Commission would desire, but the process is working. The percentage of "dial around" traffic from aggregator locations has increased substantially since this proceeding was initiated. This increase should have the long term effect of disciplining rates for operator services. Carriers unwilling to charge rates acceptable to the calling public will suffer the consequences -- a gradual withering of their revenue stream as callers reject their services and dial around. Likewise, commission payments to aggregators will decrease as dial around traffic continues to place pressure on OSP rates. Measured against the costs of BPP and the time required to implement it, LDDS believes continued FCC emphasis on consumer education, branding and unblocking will provide a better and less costly solution than Billed Party Preference.

**C. The Commission Can Help Reduce OSP Rates by Eliminating AT&T's Presubscription Advantages Created by AT&T's Discriminatory Card Validation Practices.**

The FNPRM states that BPP will provide a third principal benefit by stimulating competition in operator services through eliminating AT&T's advantages in the operator services market. FNPRM, ¶ 1. The FNPRM describes in great detail how AT&T's

"proprietary" calling card gives it advantages in competing for presubscription contracts. The Commission acknowledges how AT&T is able to win presubscription agreements against competitively priced OSPs by offering a lower commission rate yet greater overall commissions because of the large base of AT&T cards which utilize "0+" access. LDDS finds irony in the Commission's claim that Billed Party Preference is needed to eliminate these AT&T advantages. After all, the Commission earlier in this proceeding minimized the significance of AT&T's conduct by merely requiring AT&T to educate its cardholders to use "0+" dialing only from phones presubscribed to AT&T. This same conduct is apparently now sufficient reason to order Billed Party Preference as a way to curb the effects of AT&T's calling card practices.

LDDS has experienced the difficulty of competing with AT&T described by the Commission. When LDDS first began offering operator services to aggregator locations, the company took pride in its decision to price operator services rates below those of AT&T. The result of this pricing strategy was failure to win much presubscribed "0+" traffic. LDDS believes MCI and Sprint have had similar difficulty in gaining "0+" market share, because they are unable to match the overall compensation to aggregators provided by AT&T. LDDS and other carriers desiring to carry presubscribed "0+" traffic have little choice but to pay commissions which match or exceed the compensation AT&T is able to offer, and to charge rates necessary to cover these commission expenses. This situation will persist as long as AT&T is able to use its unique calling card base to leverage its market share for "0+" presubscription.

The solution to this problem does not require adoption of BPP. Rather, the solution is to stop AT&T's discriminatory card validation practices. AT&T's ability to successfully promote its calling card against LEC calling cards depends on creating the perception that the card can always be used on a "0+" basis. To ensure the card works as promised, AT&T permits its predivestiture Bell System partners to validate and bill intraLATA calls against the "proprietary" AT&T card. The inability of other IXCs to accept the AT&T card for toll calls gives AT&T significant leverage to win presubscription contracts.

LDDS does not claim to be entitled to accept any calling card that is truly proprietary. But AT&T's card is not proprietary in any sense of the word as long as AT&T permits selected common carriers to accept the card. The Commission could stop this discrimination almost immediately by ordering AT&T to choose between sharing its card with every carrier or with no carrier. Doing so would break the link between cards and presubscription that has the effect of forcing other OSP rates to significantly exceed those of AT&T.

Such a solution would be cost effective, and would not seriously inconvenience AT&T's cardholders. AT&T offers 800 access for its calling card today, and could continue to permit "0+" access for interLATA calls from lines presubscribed to AT&T.

LDDS recognizes issues related to AT&T's card validation practices are before the Commission in Petitions for Reconsideration filed by LDDS and other parties nearly two years ago. But the Commission should not defer consideration of these Petitions any longer. Eliminating AT&T's unearned advantages in

"0+" calling does not require a solution as drastic and expensive as Billed Party Preference.

**IV. IF THE COMMISSION REQUIRES BPP, THE PLAN MUST BE MODIFIED TO INCLUDE ALL TOLL TRAFFIC AND TO ALLOW ALL CARD ISSUERS THE ABILITY TO ISSUE LINE BASED CALLING CARDS.**

LDDS would support Billed Party Preference if the plan truly created a consistent routing scheme for all "0+" toll calls. As discussed above BPP can only succeed if it gives cardholders and other callers the ability to reach their carrier of choice on all "0+" long distance calls. LDDS suggests the Commission should determine whether state regulators would endorse and require BPP for all intrastate toll calls prior to ordering its implementation for interstate, interLATA calls. Since the jurisdictional nature of all "0+" toll calls can be ascertained, intrastate calls are readily separable from interstate, and there is no basis for the Commission to preempt any state which would require the continuation of "0+" presubscription for intrastate calls. The Commission should do far more than hope states would seriously consider adopting BPP for intrastate calls. See FNPRM, ¶ 48, n. 74. The Commission should proceed with BPP only if a truly universal plan can be implemented.

Any BPP plan adopted by the Commission must also allow all participants the ability to compete fairly for the issuance of calling cards. LDDS agrees with the Commission that it would not be in the public interest to adopt a BPP design that gives LECs, but not IXC's, the ability to offer line based calling cards. FNPRM, ¶ 73. If BPP is adopted, the Commission must mandate the availability of the fourteen digit screening necessary to permit

all card issuers to provide calling cards in a line based format. LDDS issues line based cards today, and would have to abandon these cards to participate in BPP if ten digit screening is all that is required.

There are other disadvantages to allowing Billed Party Preference to proceed with ten digit screening. If only LECs are able to issue line based cards for use in "0+" calling, Billed Party Preference will merely strengthen the links between regulated card validation services and non-tariffed interstate billing and collection services. Currently, LDDS issues its own bills for its cardholders. If LDDS participated in BPP and could not issue line based cards, its customers desiring such cards would have to obtain calling cards from their local exchange carrier rather than from LDDS. As a practical matter, LDDS would have little choice but to purchase LEC billing services for calls billed to such cards. Today, when LDDS provides billing for calling card calls and other services as part of the same account, the ability to deactivate a calling card assists LDDS in collecting on unpaid accounts. Under Billed Party Preference LDDS could lose the leverage provided by the ability to deactivate a calling card, since the LEC card issuer would control validation for the card. Blocking card numbers on the LDDS network would not be an effective method of controlling abuse, since any LEC-issued card could presumably be used on a 10XXX basis on other networks.

The Commission has correctly recognized that BPP should not create competitive disparity for calling cards. If the costs of implementing fourteen digit screening are so substantial as to



appear cost prohibitive, LDDS believes the Commission should decline to adopt Billed Party Preference.

**V. CONCLUSION**

Billed Party Preference is a flawed solution to problems which are being corrected through continued consumer education about operator services. Billed Party Preference would fail to make operator services more user friendly. In light of the flaws in the Commission's proposal, Billed Party Preference should not be adopted. Nevertheless, if the Commission insists on adopting BPP, the plan must be modified to include all "0+" toll traffic, and to permit IXCs to issue line based "0+" calling cards.

Respectfully submitted,

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## OPTIONS FOR "AWAY FROM HOME " CALLING

Consumers making calls from locations other than home have a variety of options and may utilize various calling services which may be regarded as substitutes for each other. Many callers prefer the convenience of being able to place a call by dialing "0" plus the number they want to call. Such calls can be billed to a local telephone company calling card, or they may be billed "collect" or to a third number.

"0+" long distance calls made from public telephones, hotels and similar locations are always routed to the long distance company which serves that location. Regardless of which long distance company handles the call, rates for operator assisted or "0+" calling card calls are almost always more expensive than direct dial calls made from a consumer's own telephone. Rates for "0+" calling vary among long distance companies, and they may vary among locations. However, as explained below, there are some very attractive alternatives.

For callers who want the best prices for "away from home" calls, and for customers who want to be assured that their "away from home" calls are handled by their preferred long distance carrier, a variety of long distance company calling cards are available. Such cards are different from the calling cards issued by local telephone companies, because they utilize a special access code -- usually an "800" number -- which connects the caller directly to their preferred long distance company. Some long distance carriers also offer the ability to make collect calls using a special "800" number, and these collect calls may be much less expensive than collect calls made by dialing "0."

Contact your preferred long distance carrier for information about calling cards and other options which can reduce the cost of calls you make when away from home. LDDSMetromedia Communications issues the exclusive OnLine calling card, which offers low rates and the most comprehensive package of features in the industry. For more information about the OnLine calling card, call 1 800 SERVICE.

This information is supplied to comply with a rule of the Federal Communications Commission (47 C.F.R. §64.707).